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Democratic lawmakers propose creating a panel with power to set prison sentences

Lawmakers recommend creating a panel that would set prison terms to ease overcrowding.

By Jenifer Warren

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SACRAMENTO — Launching what promises to be one of the year's fiercest debates in the Capitol, the Senate's top Democrats on Thursday moved toward reforming California's byzantine criminal sentencing system.

Unveiling legislation to create a sentencing review commission, Senate leader Don Perata of Oakland and Sen. Gloria Romero of Los Angeles said California should join 16 other states now revisiting the question of who goes to prison and for how long.

The lawmakers also urged Gov. Arnold Schwarzenegger to use his executive powers to create an interim working group that would begin collecting and analyzing sentencing data as early as February.

"We can't wait," Romero said, noting that prison overcrowding is so severe that federal judges may impose a cap on the inmate population, now at 172,000. "Public safety is not served with a broken corrections system."

Last month, Schwarzenegger proposed a sentencing commission of his own, part of a sweeping \$10.9-billion prison building and reform plan. The Republican governor did not specify what changes in penalties he favored but called for a 17-member panel that would suggest improvements to the Legislature.

Romero and Perata said that model lacked teeth and would doom any significant reform to failure. The Democrats want the commission to have the power to tweak sentencing guidelines or create new ones and say its ideas should automatically take effect unless legislation is introduced to block it.

A spokesman for the governor had no specific comment on the proposal but said Schwarzenegger was "thrilled" that legislators shared his commitment to tackling the prison crisis.

Republican lawmakers were far from thrilled, arguing that the responsibility for setting or changing sentences for felons must remain squarely with the Legislature.

Assemblyman Todd Spitzer (R-Orange) said suggesting that lawmakers "punt to a commission that has no accountability is a nonstarter."

"They want to take the politics out of it," said Spitzer, who was a prosecutor before becoming an elected official. "But in my opinion, the politics is critical to making sure a liberal Legislature does not become more soft on crime."

Interest in a sentencing commission has been spawned by the overcrowding plaguing California's \$10-billion correctional system. Nearly all of the state's 33 prisons are packed to almost twice their intended capacity, and officials say they will run out of room for new convicts by summer.

Meanwhile, a federal judge has given the state until June to relieve crowding — or face a possible cap on prison admissions.

Numerous other states, facing bulging prisons and ballooning corrections budgets, have found relief through sentencing commissions, according to Kara Dansky, executive director of the Stanford Criminal Justice Center.

North Carolina, which established its commission in 1990 in the face of a corrections budget crisis, adopted a tiered system that increased penalties for violent offenders while relying heavily on alternative sanctions for nonviolent convicts.

Dansky said Virginia was another state that had done "a remarkable job reducing prison expenses and seeing declines in the crime rate without jeopardizing public safety."

In California, many experts have urged an overhaul of the sentencing system, calling it chaotic, unwieldy and complex. The nonpartisan Little Hoover Commission, which is poised to release a report on sentencing reform, found that California has added more than 1,000 laws and sentence enhancements — lengthening prison terms — over the last 30 years. Most of the changes were made by the Legislature, though some came through ballot initiatives such as the three-strikes measure of 1994.

Some critics say the state's fixed-term sentencing system should be altered because it compels the release of inmates regardless of whether they are rehabilitated. Under such a system, there is no incentive for felons to change their lives, some scholars say.

Other experts say the biggest problem in California is a lack of uniformity, with felons convicted of the same crime receiving different sentences in different counties.

"The system we have now is a hodgepodge, and we need independent experts to help us put some sense into it," Perata said. "Whether the Legislature has the political will to do that is another question. I'm skeptical."

As Perata noted, the idea of sentencing reform has historically found few champions in California, with myriad proposals dying in the Legislature or through gubernatorial veto.

In proposing his commission, which would include the head of the prison system, the attorney general and appointees made by the Legislature, Schwarzenegger acknowledged, "It's going to be tough."

Romero, whose proposed commission would include prosecutors, public defenders, victims and others with ties to the system, agreed. At a news conference Thursday she displayed a 2-foot stack of scholarly reports that recommended an overhaul of sentencing — and which were promptly ignored.

Republican lawmakers are particularly leery, suggesting that sentencing reform is merely a covert attempt to shorten criminal sentences. Assembly Republican leader Michael Villines of Clovis is among the wary, saying that the problem with the prisons is not the sentencing system but a lack of beds.

"We will stand firm in defending the integrity of our state's public safety laws," Villines said, "and will resist any effort to return California to the failed soft-on-crime policies of the past."

Neither Schwarzenegger, Perata nor Romero has offered details about which sentences he would like changed. But the governor has pledged not to tamper with one law that has helped fuel the rising prison population: the three-strikes measure targeting repeat offenders.

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